

**REPORT - PLANNING COMMISSION MEETING
May 27, 2004**

Project Name and Number: CALVARY CHAPEL FREMONT- Fremont Boulevard (PLN2004-00200)

Applicant: Tim Brown

Proposal: A conditional use permit amendment to allow the expansion of an existing 8,300 square-foot religious facility to include an additional book store (375 square feet), classroom (375 square feet), and a utility room (150 square feet), totaling 900 square feet in an existing 58,300 square-foot, retail commercial building.

Recommended Action: Approve, based on findings and subject to conditions.

Location: 40645 Fremont Boulevard, #10A, #10B, #15, # 16 and #22 in the Irvington Planning Area

Assessors Parcel Number(s): 525-1052-110-0

Area: 900 square feet tenant space within an existing 58,300 square-foot, retail commercial building on an 8.25 acre site.

Owner: Leo M. Shortino and Peggy M. Shortino

Agent of Applicant: Tim Brown, Pastor

Environmental Review: This project is categorically exempt from review under CEQA pursuant to Section 15303 (New Construction or Conversion of Small Structures).

Existing General Plan: Community Commercial and High Density Residential (27-35 Dwelling units/Acre)

Existing Zoning: Planned District P-2004-80 (I) (Irvington Overlay)

Existing Land Use: Fremont Center Shopping Center

Public Hearing Notice: A total of 488 notices were mailed to owners and occupants of property within a minimum radius of 300 feet of the site on the following streets: Bay Street, Clough Avenue, Eugene Street, Fremont Boulevard, Grimmer Boulevard, James Boulevard and Woodland Terrace. Notices to owners and occupants were mailed on May 17, 2004. A Public Hearing Notice was delivered to The Argus newspaper on May 10, 2004, to be published by May 17, 2004.

Background and Previous Actions: The site was originally developed in the late 1950's as a commercial shopping center and is still predominantly commercial in nature. A bowling alley (Cloverleaf Bowl) was constructed as part of the shopping complex in the early 1960's, the bowling alley is still operational. There is a separate Taco Bell Restaurant located at the southwest corner of the site at the corner of Grimmer Boulevard and Bay Street. Two additional commercial buildings have also been built on the site at the southwest corner of Fremont Boulevard and Grimmer Boulevard.

The existing religious facility use (U-89-22) was originally approved as a tenant space church by the Planning Commission on January 11, 1990 for maximum seating capacity of 150 persons as allowed by the Zoning Ordinance. Since then, the use permit was amended three times. On January 24, 1991, the Planning Commission approved an amendment to the use permit (U-89-22A) to allow the church's expansion into an adjoining 1,950 square-foot tenant space for the purpose of educational and youth activities. On February 12, 1998, Planning Commission approved another amendment (U-89-22B) to allow the church to expand into a separate 2,000 square feet tenant space (tenant space #22) for pastoral counseling and bible studies. On January 14, 1999, Planning Commission approved an amendment to the use permit (U-89-22C) to allow the expansion of the facility by an additional 1,500 square feet (tenant space # 16) within

the same existing 58,300 square-foot, retail commercial building. The current religious facility site comprises tenant spaces #10A, #10B, #16 and #22 at 40645 Fremont Boulevard. No new seating or expansion of the assembly room worship space is proposed as part of this amendment.

Project Description: The applicant is requesting approval of a conditional use permit amendment to allow a further expansion of the existing 8,300 square foot religious facility by the addition of a separate, tenant space of approximately 900 square feet (tenant space #15 at 40645 Fremont Boulevard) within the same existing 58,300 square-foot retail commercial building. The proposed expansion includes a new bookstore (375 square feet), classroom (375 square feet), and a utility room (150 square feet). The project will involve minimal interior modifications and the proposed classroom will have a maximum occupant capacity of twenty (20) students. The proposed classroom will operate only on Wednesday (6:45 PM to 8:15 PM) and Sunday (9:00AM to 12:15 PM). Additionally, the operation hours for the bookstore are: Sunday from 9:00 AM to 12:30 PM, Wednesday from 6:45 PM to 8:15 PM, Tuesday and Thursday from 9:00 AM to 12:00 PM.

Project Analysis:

General Plan/Zoning Conformance: The project site, which is located within a Planned District (P-2004-80(I)) Zoning District, and conforms to the General Plan designation of Commercial and High Density Residential (27-35 dwelling units/acre). The expansion of the existing use is in conformance with the following fundamental goals of the General Plan;

- **Fundamental Goal F-1:** *Fremont As a City of Quality and Distinction*
- **Fundamental Goal F-2:** *An harmonious Blend of Natural and Built Environments*
- **Fundamental Goal F-4:** *An Inclusive Community that Welcomes People of Different Ages, Ethnicity, and Income.*

Zoning Regulations:

Current zoning designation (P-2004-80 (I)) allows all commercial uses that are permitted in the Community Commercial Irvington Overlay (C-C (I)) Zoning District and all commercial and related uses shall comply with the development standards and other regulations as identified in Article 11 of the Community Commercial Irvington Overlay (C-C (I)) Zoning District. In addition, a mixed use and/or residential units are allowed at a density of 27-35 units per acre and in accordance with the R-3-35 multifamily residential development standards.

The proposed project is consistent with the commercial designation as an allowable Quasi - Public Use in the C-C(I) Zoning District, subject to conditional use permit (amendment) approval. The Fremont Municipal Code (FMC) definition of a Religious Facility [Section 8-2183.8] advises a "religious facility" may be referred to as a "quasi-public use". The FMC definition of Quasi-Public Use [Section 8-2199.19.7] references a use operated by a private non-profit religious institution. Therefore, the use is allowable as an expansion of an existing conditionally approved "Quasi-Public" use. As indicated earlier, the existing zoning of the property (P-2004-80(I)) allows uses that are permitted in the C-C(I) Community Commercial (Irvington Overlay) Zoning District, thus, Section 8-21103(n) requires expansion of a Public & Quasi-Public Uses subject to review and approval by the Planning Commission.

The Development Policy for Quasi-Public Uses encourages the establishment of quasi-public facilities in locations where the facilities will be easily accessible and will not unduly interfere with traffic service to adjacent areas. The Fremont Center Shopping Center, located at the southeast corner of Fremont Boulevard and Grimmer Boulevard, and accessed by seven access driveways from Fremont Boulevard, Grimmer Boulevard and Bay Street, is adequately served for the proposed intensity of use on the site.

The Fremont Municipal Code (FMC) Section 8-22145(a)(2) permits a religious facility on an existing legal lot in a commercial district in which religious facilities are permitted uses, provided the use is located within an existing building redesigned for, or limited to, up to a seating capacity of 150 persons. The existing tenant space religious facility operates

with the 150-person limit in its assembly room. It also has a general meeting room, pastor's study and nursery room, all of which are located in an existing retail commercial building on an existing legal lot. Therefore, the legal lot status and existing commercial building utilization requirements are met.

Site & Space Use Activity: The current religious facility site comprises three separate tenant spaces: the sanctuary, comprised of adjoining spaces # 10A and #10 B; annex one, comprised of office with classrooms in tenant space #22; and annex two, comprised of three classrooms in tenant space #16 at 40645 Fremont Boulevard. The sanctuary has interior door connecting to the adjoining tenant space which is used as a nursery room for Sunday school classes. Annex one, (tenant space #22) contains the pastor's office and religious instruction classes and annex two (tenant space #16) contains three instruction classrooms with a maximum occupancy of forty-nine (49) students.

The proposed amendment will introduce an additional tenant space for the religious facility. The new space is intended to benefit the existing activities by the relocation and redistribution of weekday and weekend classes, creation of a utility room and establishment a second new bookstore. The project will involve minimal interior modifications to tenant space #15 and the proposed new bookstore will use the existing access. The new classroom will have a maximum occupancy capacity of twenty (20) students and the access will be through a corridor that leads into the sanctuary. Classroom is scheduled to operate on Sunday morning from 9:00 AM to 12:00 noon and on Wednesday evenings from 6:45 PM to 12:15 PM. The operation hours for the bookstore are, Sunday morning from 9:00 AM to 12:30 PM, Wednesday evenings from 6:45 PM to 8:15 PM and Tuesday and Thursday morning from 9:00 AM to 12:00 noon.

The new tenant space is located approximately 20 feet from the existing religious facility tenant space, and is easily accessible via the covered pedestrian walkway which provides access to the front doors of all the retail tenant spaces in the building. No new seating or expansion of the assembly room worship space will occur. Rather, the new tenant space is intended to be allocated for the benefit of existing activities which currently are compelled to share building space, and rearrange room furniture and equipment to meet differing needs. The use of the proposed tenant space will be limited by this conditional use permit amendment approval to a capacity of twenty (20) students.

The religious facility will continue to conduct worship services on Sunday mornings, between 10:00 a.m. and 12:00 noon. The church shall continue to observe the 150-person limitation for attendance at worship services. Bible study, by age group, is offered on Sundays between 10:30 a.m. and 11:30 a.m. An additional "midweek" service, typically attended by fewer persons than on Sunday, will be offered on Thursday evenings. Additional Bible study will also be conducted with approximately 10 to 30 persons, typically on a given weekday morning and weekday evening. Church counseling hours and other low parking demand, church-related activities will be offered during the week, and would typically occur from 9:00 a.m. to 5:00 p.m.

Circulation and Parking: The Fremont Center Shopping Center contains 400 parking spaces. The Fremont Municipal Code (FMC) parking requirement stipulates that parking, for a religious facility site, is to be provided at a ratio of one parking space for each five seats in the main meeting hall. The church maintains permissibility of main assembly room seating up to the 150-person capacity, which will continue to require 30 parking spaces, which are available on the site. No additional parking is required for the proposed uses in the new tenant space. Pedestrian access to the site is provided by existing sidewalks on all abutting streets.

Land Use Compatibility: During the several years of operation of the religious facility, there has been no evidence of incompatibility with adjacent commercial uses. With the additional tenant space intended to provide relocated area for activities already occurring in the existing religious facility tenant space, it is would not anticipated to conflict with available parking either on Sunday mornings or evenings. Of the tenants currently occupying the retail commercial spaces, most of the small restaurants and retail operations are closed on Sunday mornings, the time of most intensive church demand for parking.

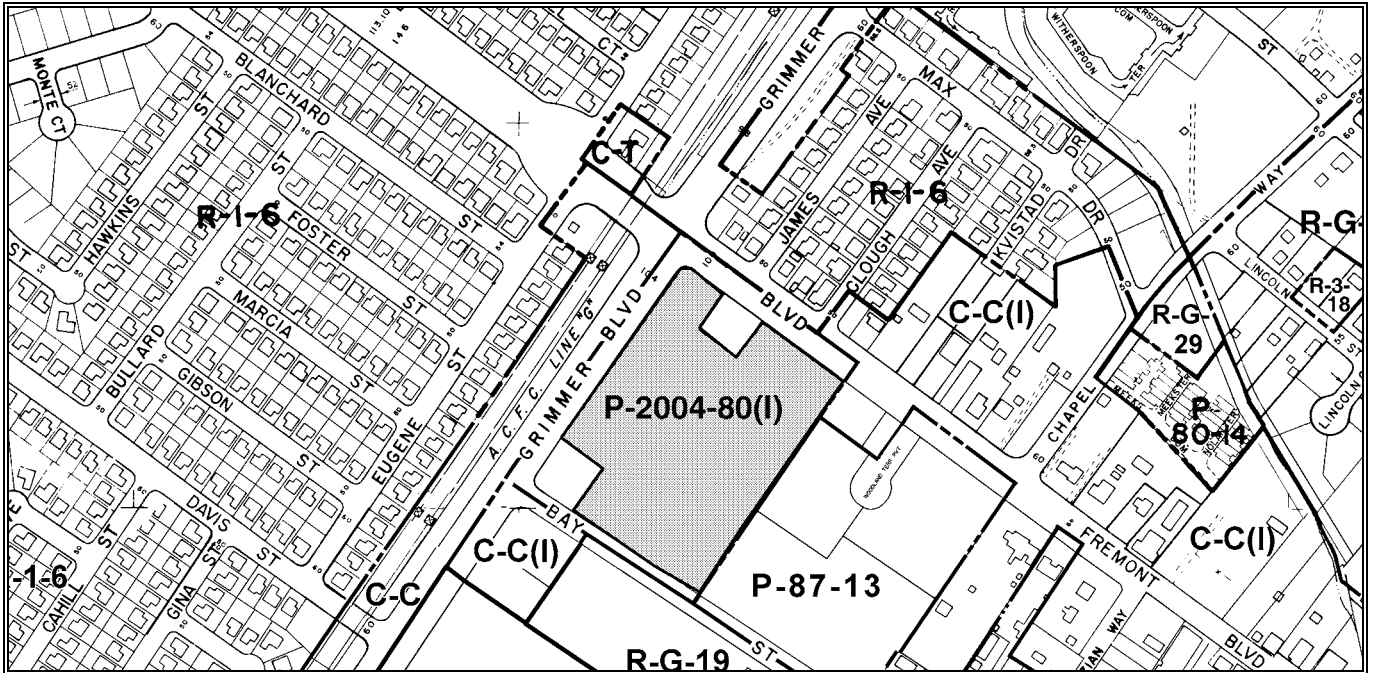
Enclosures: Exhibit "A" (Site Plan, New Tenant Space Floor Plan Applicant's Statement of Proposed Operations).

Exhibits: Exhibit "A" (Site Plan, New Tenant Space Floor Plan);
Exhibit "B" (Findings and Conditions of approval).

Recommended Action:

1. Hold public hearing.
2. Find PLN2004-00200 is in conformance with the relevant provisions contained in the City's General Plan. These provisions include fundamental goals set forth in Chapter 2 of the General Plan. Additionally, the project conforms to the goals and objectives of the Irvington Planning Area.
3. Approve Conditional Use Permit Amendment PLN2004-00200, as shown on Exhibit "A" (Site Plan, New Tenant Space Floor Plan), subject to findings and conditions as set forth in Exhibit "B", (Findings and Conditions).

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

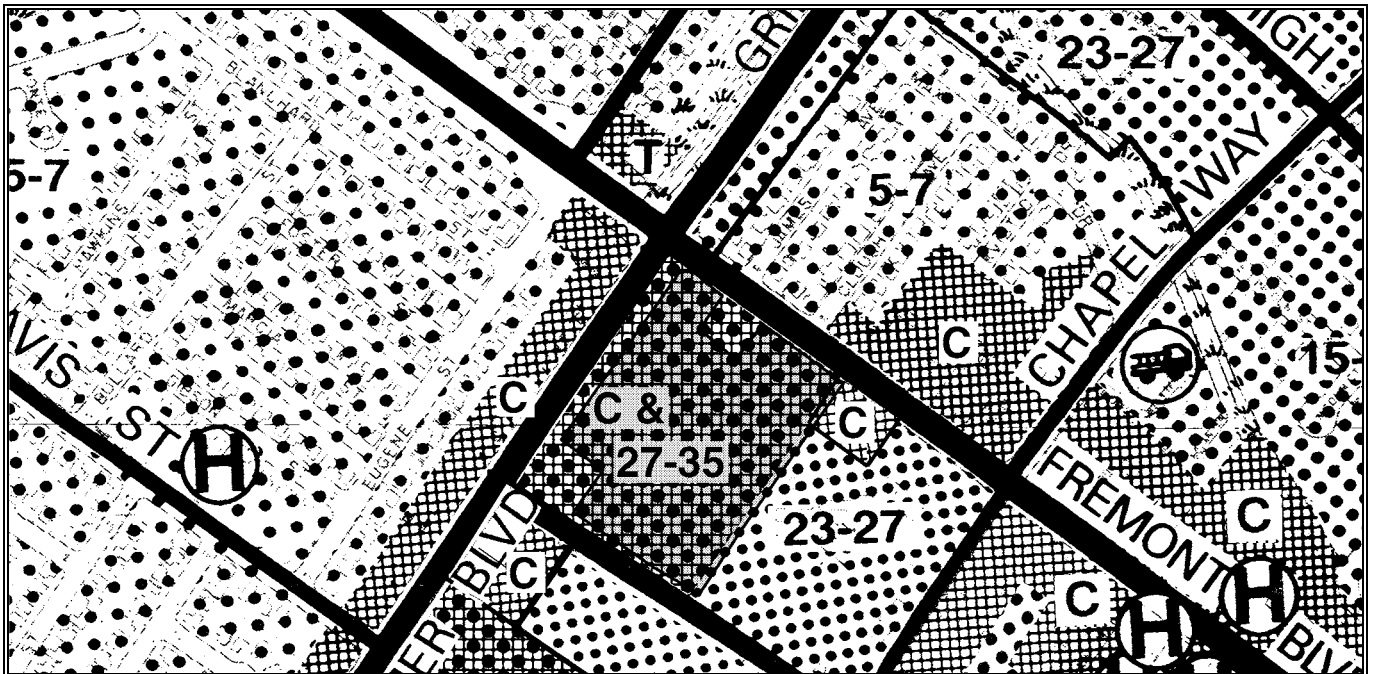


Exhibit "B"
Findings and Conditions of Approval for PLN2004-00200

FINDINGS:

The findings below are made on the basis of information contained in the staff report to the Planning Commission and information received at the Public Hearing on May 27, 2004, incorporated herein.

1. The proposed use is consistent with the General Plan of the City of Fremont because Religious Facilities are allowed in Commercial areas where they can be shown to comply with zoning standards and are compatible with adjacent commercial uses
2. The site is suitable and adequate for the proposed use because the site is zoned for such a use, is large enough to accommodate the proposed use and there is ample on-site parking.
3. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation, on transit accessibility, on the planned level of service of the street of the street system or on other public facilities or services because there is no increase in capacity in the main assembly room associated with the project and the improvements will enhance on-site pedestrian access.
4. The proposed use would not have a substantial economic effect on nearby uses because the church is an existing facility and the accessory uses will not compete with nearby uses.
5. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because the church is an existing facility and the project will only modify the exterior appearance.
6. The design of the project is compatible with existing and proposed development in the district and its surroundings because the Church complex is a semi-public facility and that the complex fronts commercial uses.
7. The project will comply with the provisions of Article 21.3. of the City's Zoning Code.

CONDITIONS OF APPROVAL:

1. Approval of PLN2004-00200 shall conform with Exhibit "A", (Site Plan, New Tenant Space Floor Plan), and all conditions of approval set forth herein, this permit will consolidate all prior conditions and therefore supersedes the conditions approval for U-89-22, U-89-22A, U-89-22B and U-89-22C.
2. Ongoing Conditions of Approval
 - 2-a. The location of tenant spaces for use by the religious facility approval shall be provided as shown on Exhibit "A", provided, however, that minor revisions to the location of such tenant spaces, hours of operation, and other elements of the above exhibit may be allowed subject to the approval of the Planning Director.
 - 2-b. The religious facility shall comply with all requirements of the Fire Department prior to occupancy of the new tenant space with regard to fire safety, including the use of only non-

combustible or flame retardant decorative materials, etc. The Fire Department is also strongly recommending the installation of a smoke detection system, with 24 hour monitoring for the existing religious facility assembly area, if not already installed.

- 2-c. Any improvements to the tenant spaces for use by the religious facility shall be submitted to the Building and Safety Division of the Development and Environmental Services Department for review to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
 - 2-d. All signs are subject to sign permits and shall follow the requirements as set forth in the Fremont Municipal Code, Article 21, Sign Regulation.
 - 2-e. The religious facility shall continue to observe the 150-person limitation for attendance at worship services.
3. Prior to use occupying the new tenant space, tenant shall comply with following regulations:
- 3-a. The proposed expansion religious facility shall be limited to an occupancy of 20 persons in tenant space # 15, intended for providing educational services for children on Wednesdays and Sundays Bible study. However, Minor changes in the hours of operations may be approved by the Assistant City Manager or the Planning Director.
 - 3-b. Further expansion beyond the scope this approval of the religious facility or related uses will trigger the installation of sprinkler system in compliance with the building code.
 - 3-c. If the Planning Director finds evidence that the conditions of approval have not been fulfilled or that the use has resulted in substantial adverse effect on the health, and /or general welfare of adjacent users or property owners, the Director may refer the use permit to the Planning Commission for review. If, upon such review, the Commission finds that any of the results above have occurred, the Commission may revoke the use permit.